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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,396	07/23/2003	Eiji Kamimura	59615 (49381)	1061
21874	7590	11/24/2006	EXAMINER	
EDWARDS & ANGELL, LLP P.O. BOX 55874 BOSTON, MA 02205			NGUYEN, LAM S	
			ART UNIT	PAPER NUMBER
			2853	

DATE MAILED: 11/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/626,396

Applicant(s)

KAMIMURA ET AL.

Examiner

LAM S. NGUYEN

Art Unit

2853

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7, 12-15, 17 and 20 is/are rejected.
- 7) ☒ Claim(s) 6, 8-11, 16, 18 and 19 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 07/23/2003.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

1. Claim 1 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 10/670674.

Although the conflicting claims are not identical, they are not patentably distinct from each other.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim 1 of copending Application No. 10/67067 teaches a method of correcting a predetermined adjustment value for an image forming apparatus producing an image of each of separated colors in accordance with said adjustment value (*lines 1-4*), comprising the steps of.

forming a first base image from a base color output in accordance with a predetermined adjustment value, and forming a first correction image from a correction color to be a subject for correction output in accordance with a value obtained by changing a predetermined adjustment value within a predetermined range (*lines 5-10*);

determining a first adjustment value from the changed adjustment values based on a density output from a sensor detecting the density of an image forming portion (*lines 11-14*);

forming a second base image from the base color output in accordance with the predetermined adjustment value, and forming a second correction image from a correction color output in accordance with a plurality of adjustment values determined based on said first adjustment value (*lines 37-43, 17-20, 23-24, 31-33*);

determining a second adjustment value from said plurality of adjustment values based on the density output from said sensor (*lines 44-47*); and

correcting the predetermined adjustment value for the correction color to the determined second adjustment value (*lines 48-50*).

2. Claims 2, 3, 4, 5, 7, 12-15, 17 and 20 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 3, 4, 5, 7, and 8 of copending Application No. 10/670674. Although the conflicting claims are not identical, they are not patentably distinct from each other.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Regarding to claims 2, 12, 20:

Claim 3 of copending Application No. 10/670674 teaches an image forming apparatus producing an image of each of separated colors in accordance with a predetermined adjustment value (*lines 1-3*), comprising:

a sensor detecting a density of an image forming portion (*lines 4-5*); and

a processor capable of performing the following operations (*lines 6-7*) comprising:

a first forming step of forming a first base image from a base color output in accordance with a predetermined adjustment value, and forming a first correction image from a correction color to be a subject for correction output in accordance with a value obtained by changing a predetermined adjustment value within a predetermined range (*lines 8-14*);

a step of determining a first adjustment value from the changed adjustment values based on the density output from said sensor (*lines 15-18*);

a second forming step of forming a second base image from a base color output in accordance with the predetermined adjustment value, and forming a second correction image from a correction color output in accordance with a plurality of adjustment values determined based on said first adjustment value (*lines 56-64, 20-22, 25-26, 39-40*);

a step of determining a second adjustment value from said plurality of adjustment values based on the density output from said sensor (*lines 65-68*); and

a correction step of correcting the predetermined adjustment value for the correction color to the determined second adjustment value (*lines 69-71*).

Regarding to claims 3, 13: Claim 4 of copending Application No. 10/670674 teaches wherein said first forming step forms the first base images with a first interval and forms said

first correction images based on a value obtained by changing an adjustment value within the range of the first interval.

Regarding to claims 4, 14: Claim 5 of copending Application No. 10/670674 teaches wherein said first forming step forms said first base images and first correction images having a same shape.

Regarding to claims 5, 15: Claim 7 of copending Application No. 10/670674 teaches wherein said second forming step forms the second base images, based on said first interval, from the base color output in accordance with the predetermined adjustment value, and forms the second correction images, based on said first interval, from the correction color output in accordance with the plurality of adjustment values determined based on the first adjustment value and the first interval.

Regarding to claims 7, 17: Claim 8 of copending Application No. 10/670674 teaches wherein each of said second base images and said second correction images has a rectangular shape and a width corresponding to an integer multiple of said first interval.

Allowable Subject Matter

Claims 6, 8-11, 16, 18-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Regarding to claims 6, 16: The primary reasons for the indication of the allowability of the claim is the inclusions therein, in combination as currently claimed, of the limitation that defining the plurality of adjustment values determined based on said first adjustment value and

the first interval such that the adjustment values fall within a predetermined range is neither disclosed nor taught by the cited prior art of record, alone or in combination.

Regarding to claims 8, 18: The primary reasons for the indication of the allowability of the claim is the inclusions therein, in combination as currently claimed, of the limitation that determining whether or not image formation by said second forming step is to be executed, wherein said correction step corrects the predetermined adjustment value for the correction color to said determined first adjustment value if it is determined that no image formation by said second forming step is to be executed is neither disclosed nor taught by the cited prior art of record, alone or in combination.

Regarding to claims 9, 10, 11, 19: The primary reasons for the indication of the allowability of the claim is the inclusions therein, in combination as currently claimed, of the limitation that wherein said step of determining the first/second adjustment value determines the first/second adjustment value based on an adjustment value at which the density output from said sensor for the first/second base image formed by said first/second forming step and for the first/second correction image formed in accordance with a changed adjustment value takes either a maximum value or a minimum value is neither disclosed nor taught by the cited prior art of record, alone or in combination.

Claim 11 is allowed because they depend directly/indirectly on claim 9.

CONTACT INFORMATION

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LAM S. NGUYEN whose telephone number is (571)272-2151. The examiner can normally be reached on 7:00AM - 3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, STEPHEN D. MEIER can be reached on (571)272-2149. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'Lam Son Nguyen', with a stylized, cursive script.

LAM SON NGUYEN